IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1038 of 2001

to

FIRST APPEAL No 1047 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-
and
Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO
1 to 5 No

STATE OF GUJARAT

Versus

RANCHODBHAI MOHANDAS,DIED,THROHIS HEIR,KANUBHAI RANCHODDAS

Appearance:
MR MUKESH PATEL AGP for Appellant No.1
MR ND GOHIL for Appellant No.2
MR JM PATEL for MR AJ PATEL for Respondent-claimants.

CORAM : MR.JUSTICE M.R.CALLA
and

MR.JUSTICE D.H.WAGHELA

Date of decision: 01/05/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

1. This group of ten First Appeals filed by the State of Gujarat and the Executive Engineer, Narmada Yojana, Unit No.1/3, under Section 54 of the Land Acquisition Act, 1894 read with Section 96 of the Code of Civil Procedure, 1908 is directed against the common judgment and order dated 22.2.2000 passed by the 2nd Joint Civil Judge (Senior Division), Mehsana in Land Acquisition Reference Cases No.971/98 to 980/98.

2. The lands of Village Borisana, Taluka Kadi, District Mehsana were sought to be acquired for Narmada Yojana. For this purpose, the notification under Section 4 was issued on 25.4.1991 and the notification under Section 6 was issued on 1.4.1992. The Land Acquisition Officer passed the award on 15.4.1994 deciding the rate of compensation as Rs.3.60 per sq. mtr. The claimants took the matter for Reference under Section 18 claiming Rs.30/- per sq. mtr. The Reference Court granted an additional compensation @ Rs.24.40 per sq. mtr. making the compensation payable @ Rs.28/- per sq. mtr. by the order dated 22.2.2000. It is this common judgment and order which has been made the subject-matter of challenge in all these appeals.

3. The Reference Court has relied upon the deposition of Shri Ambalal Somabhai Patel, who was examined at Exh.10 on behalf of the claimants. It has also placed reliance on the award of the District Court at Exh.11 in case of acquisition of the lands of village Karannagar, Taluka Kadi in Land Acquisition Reference Cases No.3191/93 to 3205/93, wherein the notification under Section 4 had been issued on 22.6.1990 and the purpose of acquisition was the same, i.e. Narmada Canal. The Reference Court in those cases awarded compensation Rs.40.60 per sq. mtr. Besides this award at Exh.11 with regard to village Karannagar, the Reference Court also relied upon the award with regard to acquisition of lands of village Shiyapura in Land Acquisition Reference Cases No.23/99 to 38/99 wherein the lands had been acquired for the same purpose, i.e. Narmada Canal, and the date of the issue of notification under Section 4 in those cases was 18.4.1991. In this award relating to village Shiyapura at Exh.12, the Reference Court awarded compensation @ Rs.28/- per sq. mtr. This rate of

compensation of Rs.28/- was reduced by the High Court when this award at Exh.12 was appealed against and the rate was reduced from Rs.28/- to that of Rs.26.60 per sq. mtr. The learned counsel referred to an earlier decision of this Court rendered on 14.12.2000 in First Appeals No.2802/2000 to 2817/2000 wherein the lands had been acquired from village Shiyapura and the rate of compensation had been reduced by this Court to Rs.26.60 per sq. mtr.

4. The lands which are the subject-matter of acquisition in the present cases are of village Borisana, which is an adjoining village and this factual position is not in dispute. Therefore, we find that in these cases also, the amount of compensation granted by the Reference Court @ Rs.28/- per sq. mtr. is required to be reduced to that of Rs.26.60 per sq. mtr. and, accordingly, the impugned order dated 22.2.2000 is modified so as to make the rate of compensation payable to the claimants as Rs.26.60 per sq. mtr. instead of Rs.28/- per sq. mtr. For rest of the purposes, the impugned order as has been passed remains intact.

5. All these appeals are partly allowed to the extent as above and the impugned award shall stand modified only to the extent as above with no order as to costs. Decree to be drawn accordingly.

6. It is expected that the due amount of compensation shall be paid to the claimants within a period of three months from the date the certified copy of this order is produced before the concerned authorities by either of the parties.

Sd/-
(M.R.Calla, J.)

Sd/-

01.5.2001 (D.H.Waghela, J.)
(KMG Thilake)